HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.NO. 20204 OF 2006

DATED: 3.11.2006

Between:

M/s Appanna Venkata Subba Rao,
Ramachandra Rao and Bros. Co. Pvt.Ltd

… Petitioner

and

The District Collector, East Godavari District at
Kakinada and others

…
Respondents

HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.NO.20204 OF 2006

ORAL ORDER:

Heard the learned counsel for the petitioner and the learned Government Pleader for Land Acquisition and the writ petition is disposed of at the stage of admission, on request by the respective counsel.

The petitioner is a company registered under the Companies Act, 1956 and is doing salt business at Visakhapatnam and Kakinada. The petitioner has obtained a perpetual lease of an extent of Ac.23.06 cents in T.S.No.40/2, Jagannadhapuram village, Kakinada from its vendor-Oriental Salt Company Limited, by a registered deed of transfer in November, 1955.

While so, the 1st respondent issued a draft notification dated 24.5.2006 under Section 4 (1) of the Land Acquisition Act, 1894 (for short 'the Act'), proposing acquisition of certain lands in T.S.No.40/2, including the extent of Ac.23.06 cents, in the

exclusive possession and enjoyment of the petitioner under the perpetual lease dated 25.11.1955.

According to the petitioner, it was a registered lease deed. The petitioner therefore has a sufficient interest to lodge objections to the proposals for acquisition and respond to a notice under Section 5-A of the Act. It is also entitled to receipt of a notice for the enquiry under Section 5-A of the Act. Though no notice calling for lodging objections under Section 5-A of the Act was issued to the petitioner, the petitioner addressed an application by Registered Post Acknowledgment Due on 21.7.2006 to the 1st respondent requesting him to issue a notice to it as it is a person interested within the meaning of Section 4 of the Act. Despite the representation of the petitioner dated 21.7.2006, no notice calling the petitioner for attending an enquiry under Section 5-A of the Act has been issued, is the complaint and grievance in this writ petition.

Learned Government Pleader for Land Acquisition on instructions, states that the enquiry under Section 5-A of the Act was held on 5.7.2006; that the petitioner was not issued any notice under Section 5-A of the Act to attend the enquiry as his name is not disclosed as either the possessor or owner of the property in the revenue records; and further that the petitioner's representation dated 21.7.2006 was received by the 1st respondent after the conduct of the enquiry under Section 5-A of the Act.

In view of the fact that the petitioner claims to have a perpetual lease of lands in question under a registered instrument, on text and authority as registration is a public verification of a transaction and is deemed to constitute a constructive notice of the factum of such transaction to all concerned, the authorities initiating acquisition process do not constitute an exception to this normative principle of the constructive notice of a fact of registration.

The reliance normally placed by the acquiring authorities on revenue records may be a practice which does not diminute the obligation to rely and refer to the registration records for the purpose of verifying the identity of persons interested under the Act, including for the purposes of issuing a notice under Section 5-A of the Act.

On the aforesaid premise, the respondents are directed to issue a notice to the petitioner calling upon him to lodge his objections to an enquiry under Section 5-A of the Act and on the petitioners' submitting/lodging its objections, the competent authority shall consider the same and a decision be taken. Such a decision shall be communicated to the petitioner by Registered Post Acknowledgment Due and till such communication, no further proceedings under the provisions of the Act be taken for further processing the acquisition proceedings.

The writ petition is disposed of as above at the stage of

admission. There shall be no order as to costs.

GODA RAGHURAM, J

Date: 3.11.2006

Note: CC as soon as possible.
Bo cvm